रजिस्ट्री सं. डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 42] नई दिल्ली, शुक्रवार, अगस्त 22, 1986/श्रावण 31, 1908
No. 42] NEW DELHI, FRIDAY, AUGUST 22, 1986/SRAVANA 31, 1908

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 22nd August, 1986:—

BILL No. 103 OF 1986

A Bill to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Juvenile Justice Act, 1986.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "begging" means—

(i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving

alms, whether under the pretence of singing, dancing, fortune-telling, performing tricks or selling articles or otherwise;

(*ii*) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(*iii*) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms;

(*b*) "Board" means a Juvenile Welfare Board constituted under section 4;

(*c*) "brothel", "prostitute", "prostitution" and "public place" shall have the meanings respectively assigned to them in the Suppression of Immoral Traffic in Women and Girls Act, 1956; 104 of 1956.

(*d*) "competent authority" means, in relation to neglected juveniles, a Board and, in relation to delinquent juveniles, a Juvenile Court and where no such Board or Juvenile Court has been constituted, includes any Court empowered under sub-section (*2*) of section 7 to exercise the powers conferred on a Board or Juvenile Court;

(*e*) "delinquent juvenile" means a juvenile who has been found to have committed an offence;

(*f*) "fit person" or "fit institution" means any person or institution (not being a police station or jail) found fit by the competent authority to receive and take care of a juvenile entrusted to his or its care and protection on the terms and conditions specified by the competent authority;

(*g*) "guardian" in relation to a juvenile, includes any person who, in the opinion of the competent authority, having cognizance of any proceeding in relation to a juvenile, has, for the time being, the actual charge of, or control over, that juvenile;

(*h*) "juvenile" means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years;

(*i*) "Juvenile Court" means a Court constituted under section 5,

(*j*) "juvenile home" means an institution established or certified by the State Government under section 9 as a juvenile home;

(*k*) "narcotic drug" and "psychotropic substance" shall have the meanings respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985; 61 of 1985.

(*l*) "neglected juvenile" means a juvenile who—

(*i*) is found begging; or

(*ii*) is found without having any home or settled place of abode and without any ostensible means of subsistence and is destitute;

(*iii*) has a parent or guardian who is unfit or incapacitated to exercise control over the juvenile; or

(*iv*) lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to

associate with any prostitute or any other person who leads an immoral, drunken or depraved life;

(*v*) who is being or is likely to be abused or exploited for immoral or illegal purposes or unconscionable gain;

(*m*) "observation home" means any institution or place established or recognised by the State Government under section 11 as an observation home;

(*n*) "offence" means an offence punishable under any law for the time being in force;

(o) "place of safety" means any place or institution (not being a police station or jail), the person in charge of which is willing temporarily to receive and take care of a juvenile and which in the opinion of the competent authority may be a place of safety for the juvenile;

(*p*) "prescribed" means prescribed by rules made under this Act;

(*q*) "probation officer" means an officer appointed as a probation officer under this Act or under the Probation of Offenders Act, 1958; 20 of 1958.

(*r*) "special home" means an institution established or certified by the State Government under section 10;

(*s*) "supervision", in relation to a juvenile placed under the care of any parent, guardian or other fit person or fit institution under this Act, means the supervision of that juvenile by a probation officer for the purpose of ensuring that the juvenile is properly looked after and that the conditions imposed by the competent authority are complied with;

(*t*) all words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973, shall have the meanings respectively assigned to them in that Code. 2 of 1974.

Continuation of inquiry in respect of juvenile who has ceased to be a juvenile.

3. Where an inquiry has been initiated against a juvenile and during the course of such inquiry the juvenile ceases to be such, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a juvenile.

CHAPTER II

COMPETENT AUTHORITIES AND INSTITUTIONS FOR JUVENILES

Juvenile Welfare Boards.

4. (*1*) The State Government may, by notification in the Official Gazette, constitute for any area specified in the notification, one or more Juvenile Welfare Boards for exercising the powers and discharging the duties conferred or imposed on such Board in relation to neglected juveniles under this Act.

(*2*) A Board shall consist of a Chairman and such other members as the State Government thinks fit to appoint, of whom not less than one shall be a woman; and every such member shall be vested with the powers of a Magistrate under the Code of Criminal Procedure, 1973. 2 of 1974.

(3) The Board shall function as a Bench of Magistrates and shall have the powers conferred by the Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class. 2 of 1974.

Juvenile Courts.

5. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, by notification in the Official Gazette, constitute for any area specified in the notification, one or more Juvenile Courts for exercising the powers and discharging the duties conferred or imposed on such Court in relation to delinquent juveniles under this Act. 2 of 1974.

(2) A Juvenile Court shall consist of such number of Metropolitan Magistrates or Judicial Magistrates of the first class, as the case may be, forming a Bench as the State Government thinks fit to appoint, of whom one shall be designated as the Principal Magistrate; and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class. 2 of 1974.

(3) Every Juvenile Court shall be assisted by a panel of two honorary social workers possessing such qualifications as may be prescribed, of whom at least one shall be a woman, and such panel shall be appointed by the State Government.

Procedure, etc., in relation to Boards and Juvenile Courts.

6. (1) In the event of any difference of opinion among the members of a Board or among the Magistrates of a Juvenile Court, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairman or of the Principal Magistrate, as the case may be, shall prevail.

(2) A Board or Juvenile Court may act notwithstanding the absence of any member of the Board or, as the case may be, any Magistrate of the Juvenile Court, and no order made by the Board or Juvenile Court shall be invalid by reason only of the absence of any member or Magistrate, as the case may be during any stage of the proceeding.

(3) No person shall be appointed as a member of the Board or as a Magistrate in the Juvenile Court unless he has, in the opinion of the State Government, special knowledge of child psychology and child welfare.

Powers of Board and Juvenile Court.

7. (1) Where a Board or a Juvenile Court has been constituted for any area, such Board or Court shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings under this Act relating to neglected juveniles or delinquent juveniles, as the case may be:

Provided that a Board or a Juvenile Court may, if it is of opinion that it is necessary so to do having regard to the circumstances of the case, transfer any proceedings to any Juvenile Court or Board, as the case may be:

Provided further that where there is any difference of opinion between a Board and a Juvenile Court regarding the transfer of any proceedings under the first proviso, it shall be referred to the Chief Metropolitan

Magistrate or, as the case may be, the Chief Judicial Magistrate for decision, and in a case where the District Magistrate is functioning as a Board or a Juvenile Court, such difference of opinion shall be referred to the Court of Session, and the decision of the Chief Metropolitan Magistrate or Chief Judicial Magistrate or, as the case may be, the Court of Session on such reference shall be final.

(2) Where no Board or Juvenile Court has been constituted for any area, the powers conferred on the Board or the Juvenile Court by or under this Act shall be exercised in that area, only by the following, namely:—

(a) the District Magistrate; or

(b) the Sub-Divisional Magistrate; or

(c) any Metropolitan Magistrate or Judicial Magistrate of the first class, as the case may be.

(3) The powers conferred on the Board or Juvenile Court by or under this Act may also be exercised by the High Court and the Court of Session, when the proceeding comes before them in appeal, revision or otherwise.

Procedure to be followed by a Magistrate not empowered under the Act.

8. (1) When any Magistrate not empowered to exercise the powers of a Board or a Juvenile Court under this Act is of opinion that a person brought before him under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile, he shall record such opinion and forward the juvenile and the record of the proceeding to the competent authority having jurisdiction over the proceeding.

(2) The competent authority to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the juvenile had originally been brought before it.

Juvenile homes.

9. (1) The State Government may establish and maintain as many juvenile homes as may be necessary for the reception of neglected juveniles under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1) is fit for the reception of the neglected juveniles to be sent there under this Act, it may certify such institution as a juvenile home for the purposes of this Act.

(3) Every juvenile home to which a neglected juvenile is sent under this Act shall not only provide the juvenile with accommodation, maintenance and facilities for education, vocational training and rehabilitation, but also provide him with facilities for the development of his character and abilities and give him necessary training for protecting himself against moral danger or exploitation and shall also perform such other functions as may be prescribed to ensure all round growth and development of his personality.

(4) The State Government may, by rules made under this Act, provide for the management of juvenile homes, including the standards and the nature of services to be maintained by them and the circumstances under which, and the manner in which, the certification of a juvenile home may be granted or withdrawn.

Special homes.

10. (1) The State Government may establish and maintain as many special homes as may be necessary for the reception of delinquent juveniles under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the reception of the delinquent juveniles to be sent there under this Act, it may certify such institution as a special home for the purposes of this Act.

(3) Every special home to which a delinquent juvenile is sent under this Act shall not only provide the juvenile with accommodation, maintenance and facilities for education, vocational training and rehabilitation, but also provide him with facilities for the development of his character and abilities and give him necessary training for his reformation and shall also perform such other functions as may be prescribed to ensure all round growth and development of his personality.

(4) The State Government may, by rules made under this Act, provide for the management of special homes, including the standards and the nature of services to be maintained by them, and the circumstances under which, and the manner in which, the certification of a special home may be granted or withdrawn.

(5) The rules made under sub-section (4) may also provide for the classification and separation of delinquent juveniles on the basis of age and nature of offences committed by them.

Observation homes.

11. (1) The State Government may establish and maintain as many observation homes as may be necessary for the temporary reception of juveniles during the pendency of any inquiry regarding them under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of juveniles during the pendency of any inquiry regarding them under this Act, it may recognise such institution as an observation home for the purposes of this Act.

(3) Every observation home to which a juvenile is sent under this Act shall not only provide the juvenile with accommodation, maintenance and facilities for medical examination and treatment, but also provide him with facilities for useful occupation.

(4) The State Government may, by rules made under this Act, provide for the management of observation homes, including the standards and the nature of services to be maintained by them, and the circumstances under which, and the manner in which, an institution may be recognised as an observation home or the recognition may be withdrawn.

After-care organisations.

12. The State Government may, by rules made under this Act, provide—

(a) for the establishment or recognition of after-care organisations and the powers that may be exercised by them for effectively carrying out their functions under this Act;

(b) for a scheme of after-care programme to be followed by such after-care organisations for the purpose of taking care of juveniles

after they leave juvenile homes or special homes and for the purpose of enabling them to lead an honest, industrious and useful life;

(c) for the preparation or submission of a report by the probation officer in respect of each juvenile prior to his discharge from a juvenile home or special home, as the case may be, regarding the necessity and nature of after-care of such juvenile, the period of such after-care, supervision thereof and for the submission of a report by the probation officer on the progress of each such juvenile;

(d) for the standards and the nature of services to be maintained by such after-care organisations;

(e) for such other matters as may be necessary for the purpose of effectively carrying out the scheme of after-care programme of juveniles.

CHAPTER III

NEGLECTED JUVENILES

Production of neglected juveniles before Boards.

13. (1) If any police officer or any other person or organisation authorised by the State Government in this behalf, by general or special order, is of opinion that a person is apparently a neglected juvenile, such police officer or other person or organisation may take charge of that person for bringing him before a Board.

(2) When information is given to an officer-in-charge of a police station about any neglected juvenile found within the limits of such station, he shall enter in a book to be kept for the purpose the substance of such information and take such action thereon as he deems fit and if such officer does not propose to take charge of the juvenile, he shall forward a copy of the entry made to the Board.

(3) Every juvenile taken charge of under sub-section (1) shall be brought before the Board without any loss of time but within a period of twenty-four hours of such charge taken excluding the time necessary for the journey from the place where the juvenile had been taken charge of to the Board.

(4) Every juvenile taken charge of under sub-section (1) shall, unless he is kept with his parent or guardian, be sent to an observation home (but not to a police station or jail) until he can be brought before a Board.

Special procedure to be followed when neglected juvenile has parents.

14. (1) If a person, who in the opinion of the police officer or the authorised person or organisation is a neglected juvenile, has a parent or guardian who has the actual charge of, or control over, the juvenile, the police officer or the authorised person or the organisation may, instead of taking charge of the juvenile, make a report to the Board for initiating an inquiry regarding that juvenile.

(2) On receipt of a report under sub-section (1), the Board may call upon the parent or guardian to produce the juvenile before it and to show cause why the juvenile should not be dealt with as a neglected juvenile under the provisions of this Act and if it appears to the Board that the

juvenile is likely to be removed from its jurisdiction or to be concealed, it may immediately order his removal (if necessary by issuing a search warrant for the immediate production of the juvenile) to an observation home or a place of safety.

Inquiry by Board regarding neglected juveniles.

15. (1) When a person alleged to be a neglected juvenile is produced before a Board, it shall examine the police officer or the authorised person or the organisation who brought the juvenile or made the report and record the substance of such examination and hold the inquiry in the prescribed manner and may make such orders in relation to the juvenile as it may deem fit.

(2) Where a Board is satisfied on inquiry that a juvenile is a neglected juvenile and that it is expedient so to deal with him, the Board may make an order directing the juvenile to be sent to a juvenile home for the period until he ceases to be a juvenile:

Provided that the Board may, for reasons to be recorded, extend the period of such stay, but in no case the period of stay shall extend beyond the time when the juvenile attains the age of eighteen years, in the case of a boy, or twenty years, in the case of a girl:

Provided further that the Board may, if it is satisfied that having regard to the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

(3) During the pendency of any inquiry regarding a juvenile, the juvenile shall, unless he is kept with his parent or guardian, be sent to an observation home or a place of safety for such period as may be specified in the order of the Board:

Provided that no juvenile shall be kept with his parent or guardian if, in the opinion of the Board, such parent or guardian is unfit or unable to exercise or does not exercise proper care and control over the juvenile.

Power to commit neglected juvenile to suitable custody.

16. (1) If the Board so thinks fit, it may, instead of making an order under sub-section (2) of section 15, for sending the juvenile to a juvenile home, make an order placing the juvenile under the care of a parent, guardian or other fit person, on such parent, guardian or fit person executing a bond with or without surety to be responsible for the good behaviour and well-being of the juvenile and for the observance of such conditions as the Board may think fit to impose.

(2) At the time of making an order under sub-section (1) or at any time subsequently, the Board may, in addition, make an order that the juvenile be placed under supervision for any period not exceeding three years in the first instance.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), if at any time it appears to the Board, on receiving a report from the probation officer or otherwise, that there has been a breach of any of the conditions imposed by it in respect of the juvenile, it may, after making such inquiry as it deems fit, order the juvenile to be sent to a juvenile home.

Uncontrollable juveniles.

17. Where a parent or guardian of a juvenile complains to the Board that he is not able to exercise proper care and control over the juvenile and the Board is satisfied on inquiry that proceedings under this Act should be initiated regarding the juvenile, it may send the juvenile to an observation home or a place of safety and make such further inquiry as it may deem fit and the provisions of section 15 and section 16 shall, as far as may be, apply to such proceedings.

CHAPTER IV

DELINQUENT JUVENILES

Bail and custody of juveniles.

18. (*1*) When any person accused of a bailable or non-bailable offence and apparently a juvenile is arrested or detained or appears or is brought before a Juvenile Court, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral danger or that his release would defeat the ends of justice.

2 of 1974.

(*2*) When such person having been arrested is not released on bail under sub-section (*1*) by the officer-in-charge of the police station, such officer shall cause him to be kept in an observation home or a place of safety in the prescribed manner (but not in a police station or jail) until he can be brought before a Juvenile Court.

(*3*) When such person is not released on bail under sub-section (*1*) by the Juvenile Court, it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

Information to parent or guardian or probation officer.

19. Where a juvenile is arrested, the officer-in-charge of the police station to which the juvenile is brought shall, as soon as may be after the arrest, inform—

(*a*) the parent or guardian of the juvenile, if he can be found, of such arrest and direct him to be present at the Juvenile Court before which the juvenile will appear; and

(*b*) the probation officer of such arrest in order to enable him to obtain information regarding the antecedents and family history of the juvenile and other material circumstances likely to be of assistance to the Juvenile Court for making the inquiry.

Inquiry by Juvenile Court regarding delinquent juveniles.

20. Where a juvenile having been charged with an offence appears or is produced before a Juvenile Court, the Juvenile Court shall hold the inquiry in accordance with the provisions of section 39 and may, subject to the provisions of this Act, make such order in relation to the juvenile as it deems fit.

Orders that may be passed regarding delinquent juveniles.

21. (*1*) Where a Juvenile Court is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Juvenile Court may, if it so thinks fit,—

(*a*) allow the juvenile to go home after advice or admonition;

(*b*) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person on such parent, guardian or other fit person executing a bond, with or without surety as that Court may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(*c*) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(*d*) make an order directing the juvenile to be sent to a special home,—

(*i*) in the case of a boy over fourteen years of age or of a girl over sixteen years of age, for a period of not less than three years;

(*ii*) in the case of any other juvenile, for the period until he ceases to be a juvenile:

Provided that the Juvenile Court may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit:

Provided further that the Juvenile Court may, for reasons to be recorded, extend the period of such stay, but in no case the period of stay shall extend beyond the time when the juvenile attains the age of eighteen years, in the case of a boy, or twenty years, in the case of a girl;

(*e*) order the juvenile to pay a fine if he is over fourteen years of age and earns money.

(*2*) Where an order under clause (*b*), clause (*c*) or clause (*e*) of sub-section (*1*) is made, the Juvenile Court may, if it is of opinion that in the interests of the juvenile and of the public it is expedient so to do in addition make an order that the delinquent juvenile shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the delinquent juvenile:

Provided that if at any time afterwards it appears to the Juvenile Court on receiving a report from the probation officer or otherwise, that the delinquent juvenile has not been of good behaviour during the period of supervision or that the fit institution under whose care the juvenile was placed is no longer able or willing to ensure the good behaviour and well-being of the juvenile it may, after making such inquiry as it deems fit, order the delinquent juvenile to be sent to a special home.

(3) The Juvenile Court making a supervision order under sub-section (2), shall explain to the juvenile and the parent, guardian or other fit person or fit institution, as the case may be, under whose care the juvenile has been placed, the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to the juvenile, the parent, guardian or other fit person or fit institution, as the case may be, the sureties, if any, and the probation officer.

(4) In determining the special home, or any person or institution to whose custody a juvenile is to be committed or entrusted under this Act, the Court shall pay due regard to the religious denomination of the juvenile to ensure that religious instruction contrary to the religious persuasion of the juvenile is not imparted to him.

Orders that may not be passed against delinquent juveniles.

22. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no delinquent juvenile shall be sentenced to death or imprisonment, or committed to prison in default of payment of fine or in default of furnishing security:

Provided that where a juvenile who has attained the age of fourteen years has committed an offence and the Juvenile Court is satisfied that the offence committed is of so serious a nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other juvenile in a special home to send him to such special home and that none of the other measures provided under this Act is suitable or sufficient, the Juvenile Court, may order the delinquent juvenile to be kept in safe custody in such place and manner as it thinks fit and shall report the case for the orders of the State Government.

(2) On receipt of a report from a Juvenile Court under sub-section (1), the State Government may make such arrangement in respect of the juvenile as it deems proper and may order such delinquent juvenile to be detained at such place and on such conditions as it thinks fit:

Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment to which the juvenile could have been sentenced for the offence committed.

Proceeding under Chapter VIII of the Code of Criminal Procedure not competent against juvenile.

2 of 1974.

23. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, no proceeding shall be instituted and no order shall be passed against a juvenile under Chapter VIII of the said Code.

No joint trial of juvenile and person not a juvenile.

2 of 1974.

24. (1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 or in any other law for the time being in force, no juvenile shall be charged with or tried for, any offence together with a person who is not a juvenile.

2 of 1974.

(2) If a juvenile is accused of an offence for which under section 223 of the Code of Criminal Procedure, 1973, or any other law for the time being in force, such juvenile and any person who is not a juvenile would,

but for the prohibition contained in sub-section (*1*), have been charged and tried together, the court taking cognizance of that offence shall direct separate trials of the juvenile and the other person.

Removal of disqualification attaching to conviction.

25. Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

Special provision in respect of pending cases.

26. Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and. instead of passing any sentence in respect of the juvenile, forward the juvenile to the Juvenile Court which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that the juvenile has committed the offence.

CHAPTER V

PROCEDURE OF COMPETENT AUTHORITIES GENERALLY AND APPEALS AND REVISION FROM ORDERS OF SUCH AUTHORITIES

Sittings, etc., of Boards and Juvenile Courts.

27. (*1*) A Board or a Juvenile Court shall hold its sittings at such place, on such day and in such manner, as may be prescribed.

(*2*) A Magistrate empowered to exercise the powers of a Board or, as the case may be, a Juvenile Court under sub-section (*2*) of section 7 shall, while holding any inquiry regarding a juvenile under this Act, as far as practicable, sit in a building or room different from that in which the ordinary sittings of Civil and Criminal Courts are held, or on different days or at times different from those at which the ordinary sittings of such Courts are held.

(*3*) An inquiry regarding a juvenile under this Act shall be held expeditiously and shall ordinarily be completed within a period of three months from the date of its commencement, unless, for special reasons to be recorded in writing, the competent authority otherwise directs.

Persons who may be present before competent authority.

28. (*1*) Save as provided in this Act, no person shall be present at any sitting of a competent authority, except—

(*a*) any officer of the competent authority, or

(*b*) the parties to the inquiry before the competent authority, the parent or guardian of the juvenile and other persons directly concerned in the inquiry including police officers and legal practitioners, and

(*c*) such other persons as the competent authority may permit to be present.

(2) Notwithstanding anything contained in sub-section (1), if at any stage during an inquiry, a competent authority considers it to be expedient in the interest of the juvenile or on grounds of decency or morality that any person including the police officers, legal practitioners, the parent, guardian or the juvenile himself should withdraw, the competent authority may give such direction, and if any person refuses to comply with such direction, the competent authority may have him removed and may, for this purpose, cause to be used such force as may be necessary.

(3) No legal practitioner shall be entitled to appear before a Board in any case or proceeding before it, except with the special permission of that Board.

Attendance of parent or guardian of juvenile.

29. Any competent authority before which a juvenile is brought under any of the provisions of this Act may, whenever it so thinks fit, require any parent or guardian having the actual charge of, or control over, the juvenile to be present at any proceeding in respect of the juvenile.

Dispensing with attendance of juvenile.

30. If, at any stage during the course of an inquiry, a competent authority is satisfied that the attendance of the juvenile is not essential for the purpose of the inquiry, the competent authority may dispense with his attendance and proceed with the inquiry in the absence of the juvenile.

Committal to approved place of juvenile suffering from dangerous disease and his future disposal.

31. (1) When a juvenile who has been brought before a competent authority under this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the competent authority may send the juvenile to any place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

(2) Where a juvenile is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898 or the Indian Lunacy Act, 1912, as the case may be.

3 of 1898.
4 of 1912.

(3) Where a competent authority has taken action under sub-section (1) in the case of juvenile suffering from an infectious or contagious disease, the competent authority before restoring the said juvenile to his partner in marriage, if there has been such, or to the guardian, as the case may be, shall, where it is satisfied that such action will be in the interest of the said juvenile call upon his partner in marriage or the guardian, as the rase may be, to satisfy the competent authority by submitting to medical examination that such partner or guardian will not re-infect the juvenile in respect of whom the order has been passed.

Presumption and determination of age.

32. (1) Where it appears to a competent authority that a person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile, the competent authority shall make due inquiry as to the age of that person and for that purpose shall take such evidence as may be necessary and shall

record a finding whether the person is a juvenile or not, stating his age as nearly as may be.

(2) No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile, and the age recorded by the competent authority to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person.

Circumstances to be taken into consideration in making orders under the Act.

33. In making any order in respect of a juvenile under this Act, a competent authority shall take into consideration the following circumstances, namely:—

(*a*) the age of the juvenile;

(*b*) the state of physical and mental health of the juvenile;

(*c*) the circumstances in which the juvenile was and is living;

(*d*) the reports made by the probation officer;

(*e*) the religious persuasion of the juvenile;

(*f*) such other circumstances as may, in the opinion of the competent authority, require to be taken into consideration in the interest of the welfare of the juvenile:

Provided that in the case of a delinquent juvenile, the above circumstances shall be taken into consideration after the Juvenile Court has recorded a finding against the juvenile that he has committed the offence:

Provided further that if no report of the probation officer is received within ten weeks of his being informed under section 19, it shall be open to the Juvenile Court to proceed without it.

Sending a juvenile outside jurisdiction.

34. In the case of a neglected or delinquent juvenile whose ordinary place of residence lies outside the jurisdiction of the competent authority before which he is brought, the competent authority may, if satisfied after due inquiry that it is expedient so to do, send the juvenile back to a relative or other person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him, notwithstanding that such place of residence is outside the jurisdiction of the competent authority; and the competent authority exercising jurisdiction over the place to which the juvenile is sent shall in respect of any matter arising subsequently have the same powers in relation to the juvenile as if the original order had been passed by itself.

Reports to be treated as confidential.

35. The report of the probation officer or any circumstance considered by the competent authority under section 33 shall be treated as confidential:

Provided that the competent authority may, if it so thinks fit, communicate the substance thereof to the juvenile or his parent or guardian and may give such juvenile, parent or guardian an opportunity of pro-

ducing such evidence as may be relevant to the matter stated in the report.

Prohibition of publication of names, etc., of juveniles involved in any proceeding under the Act.

36. (*1*) No report in any newspaper, magazine or news-sheet of any inquiry regarding a juvenile under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published:

Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile.

(*2*) Any person contravening the provisions of sub-section (*1*) shall be punishable with fine which may extend to one thousand rupees.

Appeals.

37. (*1*) Subject to the provisions of this section, any person aggrieved by an order made by a competent authority under this Act may, within thirty days from the date of such order, prefer an appeal to the Court of Session:

Provided that the Court of Session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) No appeal shall lie from—

(*a*) any order of acquittal made by the Juvenile Court in respect of a juvenile alleged to have committed an offence; or

(*b*) any order made by a Board in respect of a finding that a person is not a neglected juvenile.

(*3*) No second appeal shall lie from any order of the Court of Session passed in appeal under this section.

Revision.

38. The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

Procedure in inquiries, appeals and revision proceedings.

39. (*1*) Save as otherwise expressly provided by this Act, a competent authority while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973, for trials in summons cases.

2 of 1974.

(*2*) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973.

2 of 1974.

Power to amend orders.

40. (*1*) Without prejudice to the provisions for appeal and revision under this Act, any competent authority may, either on its own motion or on an application received in this behalf, amend any order as to the institution to which a juvenile is to be sent or as to the person under whose care or supervision a juvenile is to be placed under this Act.

(*2*) Clerical mistakes in orders passed by a competent authority or errors arising therein from any accidental slip or omission may, at any time, be corrected by the competent authority either on its own motion or on an application received in this behalf.

CHAPTER VI

SPECIAL OFFENCES IN RESPECT OF JUVENILES

Punishment for cruelty to juvenile.

41. (*1*) Whoever, having the actual charge of, or control over, a juvenile, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(*2*) No court shall take cognizance of an offence punishable under sub-section (*1*) unless the complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

Employment of juveniles for begging.

42. (*1*) Whoever employs or uses any juvenile for the purposes of begging or causes any juvenile to beg shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(*2*) Whoever, having the actual charge of, or control over, a juvenile abets the commission of the offence punishable under sub-section (*1*), shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(*3*) The offence punishable under this section shall be cognizable.

Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a juvenile.

43. Whoever gives, or causes to be given, to any juvenile any intoxicating liquor in a public place or any narcotic drug or psychotropic substance except upon the order of a duly qualified medical practitioner or in case of sickness shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Exploitation of juvenile employees.

44. Whoever ostensibly procures a juvenile for the purpose of any employment and withholds the earnings of the juvenile or uses such earnings for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Alternative punishments.

45. Where an act or omission constitutes an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

CHAPTER VII

MISCELLANEOUS

Power of State Government to discharge and transfer juveniles.

46. (*1*) The State Government may, notwithstanding anything contained in this Act, at any time, order a neglected or delinquent juvenile to be discharged from the juvenile home or special home, either absolutely or on such conditions as it may think fit to impose.

(2) The State Government may, notwithstanding anything contained in this Act, order—

(*a*) a neglected juvenile to be transferred from one juvenile home to another;

(*b*) a delinquent juvenile to be transferred from one special home to another or from a special home to a borstal school where such school exists or from a special home to a juvenile home;

(c) a neglected juvenile or a delinquent juvenile to be transferred from a juvenile home or a special home to a fit person or a fit institution;

(*d*) a juvenile who has been released on licence which has been revoked or forfeited, to be sent to the special home or juvenile home from which he was released or to any other juvenile home or special home or borstal school:

Provided that the total period of the stay of the juvenile in a juveline home or a special home or a fit institution or under a fit person shall not be increased by such transfer.

(*3*) The State Government may, notwithstanding anything contained in this Act, at any time, discharge a juvenile from the care of any person under whom he was placed under this Act either absolutely or on such conditions as may think fit to impose.

Transfers between juvenile homes, etc., under the Act and juvenile homes, etc., of like nature in different parts of India.

47. (*1*) The Government of a State may direct any neglected juvenile or delinquent juvenile to be transferred from any juvenile home or special home within the State to any other juvenile home, special home or institution of a like nature in any other State with the consent of the Government of that State.

(2) The Government of a State may, by general or special order, provide for the reception in a juvenile home or special home within the State of a neglected juvenile or delinquent juvenile detained in a juvenile home or special home or institution of a like nature in any other State where the Government of that State makes an order for such transfer, and upon such transfer the provisions of this Act shall apply to such juvenile as if he had been originally ordered to be sent to such juvenile home or special home under this Act.

Transfer of juveniles of unsound mind or suffering from leprosy or addicted to drugs.

48. (1) Where it appears to the State Government that any juvenile kept in a special home or juvenile home or institution in pursuance of this Act is suffering from leprosy or is of unsound mind, or is addicted to any narcotic drug or psychotropic substance, the State Government may order his removal to a leper asylum or mental hospital or treatment centre for drug addicts or other place of safe custody for being kept there for such period not exceeding the period for which he is required to be kept in custody under the orders of the competent authority or for such further period as may be certified by the medical officer to be necessary for the proper treatment of the juvenile.

(2) Where it appears to the State Government that the juvenile is cured of leprosy or of unsoundness of mind or drug addiction it may, if the juvenile is still liable to be kept in custody, order the person having charge of the juvenile to send him to the special home or juvenile home or institution from which he was removed or, if the juvenile is no longer liable to be kept in custody, order him to be discharged.

Placing out on licence.

49. (1) When a juvenile is kept in a juvenile home or special home, the State Government may, if it so thinks fit, release the juvenile from the juvenile home or special home and grant him a written licence for such period and on such conditions as may be specified in the licence permitting him to live with, or under the supervision of, any responsible person named in the licence willing to receive and take charge of him with a view to educate him and train him for some useful trade or calling.

(2) Any licence so granted under sub-section (1) shall be in force for the period specified in the licence or until revoked or forfeited by the breach of any of the conditions on which it was granted.

(3) The State Government may, at any time, by order in writing, revoke any such licence and order the juvenile to return to the juvenile home or special home from which he was released or to any other juvenile home or special home, and shall do so at the desire of the person with whom or under whose supervision the juvenile has been permitted to live in accordance with a licence granted under sub-section (1).

(4) When a licence has been revoked or forfeited and the juvenile refuses or fails to return to the special home or juvenile home to which he was directed so to return, the State Government may, if necessary, cause him to be taken charge of and to be taken back to the special home or juvenile home.

(5) The time during which a juvenile is absent from a special home or juvenile home in pursuance of a licence granted under this section shall be deemed to be part of the time for which he is liable to be kept in custody in the special home or juvenile home:

Provided that when a juvenile has failed to return to the special home or juvenile home on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is liable to be kept in custody.

Provision in respect of escaped juveniles.

50. Notwithstanding anything to the contrary contained in any other law for the time being in force, any police officer may take charge without warrant of a juvenile who has escaped from a special home or a juvenile home or from the care of a person under whom he was placed under this Act and shall send the juvenile back to the special home or the juvenile home or that person, as the case may be; and no proceeding shall be instituted in respect of the juvenile by reason of such escape but the special home, juvenile home or the person may, after giving the information to the competent authority which passed the order in respect of the juvenile, take such steps against the juvenile as may be deemed necessary.

Constitution by parents.

51. (*1*) The competent authority which makes an order for sending a neglected juvenile or a delinquent juvenile to a juvenile home or a special home or placing the juvenile under the care of a fit person or fit institution may make an order requiring the parent or other person liable to maintain the juvenile to contribute to his maintenance, if able to do so, in the prescribed manner.

(*2*) The competent authority before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the juvenile and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.

(*3*) The person liable to maintain a juvenile shall, for the purposes of sub-section (*1*), include in the case of illegitimacy, his putative father:

Provided that where the juvenile is illegitimate and an order for his maintenance has been made under section 125 of the Code of Criminal
2 of 1974. Procedure, 1973, the competent authority shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the competent authority and such sum shall be paid by him towards the maintenance of the juvenile.

(*4*) Any order made under this section may be enforced in the same manner as an order under section 125 of the Code of Criminal Procedure,
2 of 1974. 1973.

Fund.

52. (*1*) The State Government may create a Fund under such name as it thinks fit for the welfare and rehabilitation of the juveniles dealt with under this Act.

(*2*) There shall be credited to the Fund such voluntary donations, contributions or subscriptions as may be made by any individual or organisation.

(*3*) The Fund created under sub-section (*1*) shall be administered by such officers or authority, in such manner and for such purposes as may be prescribed.

Advisory Board.

53. (*1*) The State Government may constitute an Advisory Board to advise it on matters relating to the establishment and maintenance of homes, mobilisation of resources, provision of facilities for education, training and rehabilitation of neglected and delinquent juveniles and coordination among the various official and non-official agencies concerned.

(2) The Advisory Board shall consist of such number of officers and other persons as the State Government thinks fit and may also include experts and the representatives of voluntary organisations engaged in the relevant areas.

Visitors.

54. (1) The State Government may nominate not more than three non-officials to be Visitors for each of the homes established under this Act.

(2) A Visitor nominated for a home under sub-section (1) shall periodically visit such home and make a report to the State Government.

Control of custodian over juvenile.

55. Any person in whose custody a juvenile is placed in pursuance of this Act shall, while the order is in force, have the like control over the juvenile as he would have if he were his parent, and shall be responsible for his maintenance, and the juvenile shall continue in his custody for the period stated by the competent authority, notwithstanding that he is claimed by his parent or any other person:

Provided that no juvenile while in such custody shall be carried except with the permission of the competent authority.

Delinquent juvenile undergoing sentence at commencement of the Act.

56. In any area in which this Act is brought into force, the State Government may direct that a delinquent juvenile who is undergoing any sentence of imprisonment at the commencement of this Act shall, in lieu of undergoing such sentence, be sent to a special home or be kept in safe custody in such place and manner as the State Government thinks fit, for the remainder of the period of the sentence; and the provisions of this Act shall apply to the juvenile as if he had been ordered by a Juvenile Court to be sent to such special home or, as the case may be, ordered to be detained under sub-section (2) of section 22.

Appointment of officers.

57. (1) The State Government may appoint as many probation officers, officers for the inspection of special homes, juvenile homes, observation homes or after-care organisations and such other officers as it may deem necessary for carrying out the purposes of this Act.

(2) It shall be the duty of the probation officer —

(a) to inquire, in accordance with the direction of a competent authority, into the antecedents and family history of any juvenile accused of an offence, with a view to assist the authority in making the inquiry;

(b) to visit neglected and delinquent juveniles at such intervals as the probation officer may think fit;

(c) to report to the competent authority as to the behaviour of any neglected or delinquent juvenile;

(d) to advise and assist neglected or delinquent juveniles and, if necessary, endeavour to find them suitable employment;

(e) where a neglected or delinquent juvenile is placed under the care of any person or institution on certain conditions, to see whether such conditions are being complied with; and

(f) to perform such other duties as may be prescribed.

(3) Any officer empowered in this behalf by the State Government may enter any special home, juvenile home, observation home or after-care organisation and make a complete inspection thereof in all its departments and of all papers, registers and accounts relating thereto and shall submit the report of such inspection to the State Government.

Officers appointed under the Act to be public servants.

58. Probation officers and other officers appointed in pursuance of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Procedure in respect of bonds.

59. The provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973, shall, as far as may be, apply to bonds taken under this Act.

2 of 1974.

Delegation of powers.

60. The State Government may, by general or special order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to that Government.

Protection of action taken in good faith.

61. No suit or other legal proceeding shall lie against the State Government or any probation officer or other officer appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

Power to make rules.

62. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the places at which, the days on which, the time at which, and the manner in which, a competent authority may hold its sittings;

(b) the procedure to be followed by a competent authority in holding inquiries under this Act, and the mode of dealing with juveniles suffering from dangerous diseases or mental complaints;

(c) the circumstances in which, and the conditions subject to which, an institution may be certified as a special home or a juvenile's home or recognised as an observation home, and the certification or recognition withdrawn;

(d) the internal management of special homes, juvenile homes and observation homes and the standards and the nature of services to be maintained by them;

(e) the functions and responsibilities of special homes, juvenile homes and observation homes;

(f) the inspection of special homes, juvenile homes, observation homes and after-care organisations;

(*g*) the establishment, management and functions of after-care organisations; the circumstances in which, and the conditions subject to which an institution may be recognised as an after-care organisation and such other matters as are referred to in section 12;

(*h*) the qualifications and duties of probation officers;

(*i*) the recruitment and training of persons appointed to carry out the purposes of this Act and the terms and conditions of their service;

(*j*) the conditions subject to which a girl who is a neglected or delinquent juvenile may be escorted from one place to another, and the manner in which a juvenile may be sent outside the jurisdiction of a competent authority;

(*k*) the manner in which contribution for the maintenance of a juvenile may be ordered to be paid by a parent or guardian;

(*l*) the officers or authorities by whom, the manner in which and the purpose for which the Fund created under section 52 shall be administered;

(*m*) the conditions under which a juvenile may be placed out on licence and the form and conditions of such licence;

(*n*) the conditions subject to which juveniles may be placed under the care of any parent, guardian or other fit person or fit institution under this Act and the obligations of such persons or institutions towards the juveniles so placed;

(*o*) any other matter which has to be, or may be, prescribed;

(3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of that State.

Repeal and savings.

63. If, immediately before the date on which this Act comes into force in any State, there is in force in that State, any law corresponding to this Act, that law shall stand repealed on the said date:

Provided that the repeal shall not affect—

(*a*) the previous operation of any law so repealed or anything duly done or suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS

A review of the working of the existing Children Acts would indicate that much greater attention is required to be given to children who may be found in situations of social maladjustment, delinquency or neglect. The justice system as available for adults is not considered suitable for being applied to juveniles. It is also necessary that a uniform juvenile justice system should be available throughout the country which should make adequate provision for dealing with all aspects in the changing social, cultural and economic situation in the country. There is also need for larger involvement of informal systems and community based welfare agencies in the care, protection, treatment, development and rehabilitation of such juveniles.

2. In this context, the proposed legislation aims at achieving the following objectives:—

(i) to lay down a uniform legal framework for juvenile justice in the country so as to ensure that no child under any circumstances is lodged in jail or police lock-up. This is being ensured by establishing Juvenile Welfare Boards and Juvenile Courts;

(ii) to provide for a specialised approach towards the prevention and treatment of juvenile delinquency in its full range in keeping with the developmental needs of the child found in any situation of social maladjustment;

(iii) to spell out the machinery and infrastructure required for the care, protection, treatment, development and rehabilitation of various categories of children coming within the purview of the juvenile justice system. This is proposed to be achieved by establishing observation homes, juvenile homes for neglected juveniles and spcial homes for delinquent juveniles;

(iv) to establish norms and standards for the administration of juvenile justice in terms of investigation and prosecution, adjudication and disposition, and care, treatment and rehabilitation;

(v) to develop appropriate linkages and co-ordination between the formal system of juvenile justice and voluntary agencies engaged in the welfare of neglected or socially maladjusted children and to specifically define the areas of their responsibilities and roles;

(vi) to constitute special offences in relation to juveniles and provide for punishments therefor;

(vii) to bring the operation of the juvenile justice system in the country in conformity with the United Nations Standard Minimum Rule for the Administration of Juvenile Justice.

3. As its various provisions come into force in different parts of the country they would replace the corresponding laws on the subject such as the Children Act, 1960 and other State enactments on the subject.

The Bill seeks to achieve the above objects.

NEW DELHI;
The 20th August, 1986.

RAJENDRA KUMARI BAJPAI.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 8-1/85-SD, from Dr. (Smt.) Rajendra Kumari Bajpai, Minister of State of the Ministry of Welfare to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, namely the Juvenile Justice Bill, 1986, recommends to Lok Sabha the consideration of the Bill under article 117(3) of the Constitution of India.

Notes on clauses

Clause 2.—This clause defines the various expressions used in the Bill. Sub-clause (d) of this clause defines "juvenile" as to mean a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. Most of the definitions of the expressions used in the Bill are based on the definitions in the Children Act, 1960. Sub-clause (h) defines the words "narcotic drug" and "psychotropic substance". These words shall have the meanings respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985.

Clause 3.—This clause provides for the continuation of inquiry in respect of a juvenile, who has ceased to be a juvenile.

Clauses 4 *to* 12.—These clauses provide for the constitution of Juvenile Welfare Boards (clause 4); Juvenile Courts (clause 5); juvenile homes (clause 9); special homes (clause 10); observation homes (clause 11) and after-care organisations (clause 12). Clause 6 provides for the procedure in relation to powers of Juvenile Courts. Clause 7 specifies the powers of the Boards and Juvenile Courts. Clause 8 prescribes the procedure to be followed by a Magistrate not empowered under the proposed legislation.

Clauses 13 *to* 17—These clauses provide for the production of neglected juveniles before Boards (clause 13), special procedure to be followed when neglected juvenile has parents (clause 14), inquiry of Board regarding neglected juvenile (clause 15) and power to commit neglected juvenile to suitable custody (clause 16). Clause 17 deals with uncontrollable juveniles.

Clauses 18 *to* 26.—These clauses deal with delinquent juveniles in matters relating to their bail and custody, information as to their arrest to parent or guardian or probation officer; orders that may or may not be passed against them. Clause 26 provides special provisions in respect of pending cases in any Court, etc.

Clauses 27 *to* 40.—These clauses provide for the procedure to be followed by the Boards and Juvenile Courts in disposing of cases relating to juveniles. Clause 36 prohibits the publication of name, address or school of any juvenile involved in any proceedings. Clause 37 makes provision for appeal against the order made by a competent authority. Clause 38 empowers the High Court to revise the orders which any competent authority or Court of Session has passed. It further provides that the High Court shall not pass an order which is prejudicial to any person without giving him a reasonable opportunity of being heard. Clause 39 provides for the procedure to be followed in inquiries, appeals and revision proceedings. Clause 40 empowers the competent authority to amend orders, etc.

Clauses 41 *to* 45.—Clause 41 provides for punishment for cruelty to juvenile by persons having actual charge or control. Clause 42 provides punishment to persons who employ juvenile for begging. Clause 43 prescribes penalty for giving intoxicating liquor or narcotic drugs or psychotropic substances to a juvenile. Clause 44 provides punishment for a person who employs a juvenile for the purpose of exploitation and withholds the earnings of the juvenile. Clause 45 provides that in cases where an act or omission constitutes an offence punishable under this law and also in any other Act for the time being in force, then in that case the punishment which is greater in degree under this law or under the other Act, shall be awarded to the offender.

Clauses 46 *to* 48.—These clauses empower the State Government to order discharge and transfer of juveniles from one juvenile home to another, etc.

Clause 49.—This clause empowers the State Government to release the juvenile from the juvenile home or special home and grant him a written licence permitting him to live with or under the supervision of any responsible person named in the licence, who is willing to receive such juvenile.

Clause 50.—This clause makes the provision in respect of juvenile who have escaped from the special home or juvenile home or from the care of a person under whom he was placed.

Clause 51.—This clause empowers the competent authority to make an order requiring the parent or other person liable to maintain the juvenile to contribute to his maintenance.

Clause 52.—This clause authorises the State Government to create a Fund under such name as it thinks fit for the welfare and rehabilitation of juveniles dealt with under the proposed law.

Clause 53.—This clause empowers the State Government to constitute an Advisory Board to advise the State Government on the matters relating to the establishment and maintenance of homes, mobilisation of resources, provision of facilities for education, training and rehabilitation of neglected and delinquent juveniles, etc.

Clause 54.—Under this clause the State Government is authorised to nominate not more than three non-officials to be the Visitors for each of the homes established under the proposed law and the Visitor is required to submit a periodical report of his visit to the home to the State Government.

Clause 55.—This clause provides for control of the custodian over juveniles.

Clause 56.—This clause makes a provision for delinquent juvenile undergoing sentence on the date of the commencement of this law.

Clause 57.—This clause empowers the State Government to appoint officers, etc., for carrying out the purposes of this law.

Clause 58.—This clause declares the officers appointed under the provisions of this law to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 59.—This clause makes the provision of Chapter XXXIII of the Code of Criminal Procedure, 1973 applicable to bonds taken under this law.

Clause 60.—This clause empowers the State Government to delegate its powers.

Clause 61.—This clause provides for protection of acts of the officers appointed under this law.

Clause 62.—This clause deals with the powers of the State Government to make rules.

Clause 63.—This is a usual clause of repeal and savings.

FINANCIAL MEMORANDUM

The proposed legislation aims at bringing about a basic uniformity in the implementation of the various legislative provisions and in bringing about a qualitative improvement in the functioning of institutions set up under the Children Act, 1960 and analogous laws enacted by the State Governments. Thus, this legislation would be implemented largely by the States and similarly in respect of Union Territories the existing infrastructure available under the Children Act, 1960 as amended in 1973 passed by Parliament would be reorganised and utilised. The emphasis would be shifted from institutional care to bringing in family and the community in the task of care, protection, treatment, development and rehabilitation of neglected and delinquent children.

Expenditure incurred on this by the States will be met out of their respective Consolidated Funds. Expenditure incurred on this by Union territories will be met out of Consolidated Fund of India and it is expected to be of the same order as at present of about Rs. 1.00 crore 30 lakhs of recurring nature and 15 lakhs of non-recurring nature for the Children Act, 1960 which will be replaced by this law.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 62 of the Bill empowers the State Government to make rules to carry out the purposes of the Bill when enacted. Sub-clause (2) of that clause enumerates the various matters in respect of which rules may be made. These matters relate, among others, to the procedure to be followed by a competent authority in holding sittings, inquiries and mode of dealing with juveniles suffering from dangerous diseases or mental complaints, certification and recognition of institutions as special homes, juvenile homes, observation homes, after-care homes and inspection of various institutions set up or recognised under this Act, the recruitment, training, qualifications and duties of probation officers and other persons appointed to carry out the purposes of this Act, the manner in which a juvenile may be sent outside the jurisdiction of a Court, the conditions under which a juvenile may be placed out on licence and the form and conditions subject to which juveniles may be placed under the care of parents, guardian or any other person, as well as the obligation of such person towards the juveniles, the manner in which and the purposes for which, the Fund is to be administered.

2. The matters in respect of which rules may be made are matters of procedure or detail. The delegation of legislative power is, thus, of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1986